LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
MAY 28 1965
JOHN F. DAVIS, CLERK

In The

SUPREME COURT OF THE UNITED STATES

Fall Term 1964

No. [redacted] 196

PAUL H. WOFFORD, et al,
Petitioners,

vs.

THE NORTH CAROLINA STATE HIGHWAY COMMISSION,
Respondent.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF NORTH CAROLINA

To the Honorable, the Chief Justice and the Associate Justices of the United States of America:

Of Counsel:
ROY L. DEAL
405 Pepper Building
Winston-Salem, North Carolina

EDWIN T. PULLEN
405 Pepper Building
Winston-Salem, North Carolina

INDEX

	Page
Jurisdiction	2
Statement of the grounds on which the jurisdiction of this court is invoked	2
A. Date of judgment and decree to be reviewed	3
B. Statutory provision conferring jurisdiction	3
Questions presented for review and raised by this petition	4
United States Constitutional provisions involved in this case	5
Statement of the Case	6
Stage of the proceedings in the court of first instance and in the appellate court and the manner in which the federal question sought to be reviewed was raised	8
Argument amplifying reasons relied on for allowance of the writ of certiorari	9
Conclusion	24
Appendix I—Opinion of North Carolina Supreme Court	27

Page

Appendix II—Judgment of Lower Court Appealed from 39

Appendix III—North Carolina General Statute 153-9 (17) 45

TABLE OF CASES

Appropriation of Easement for Highway Purposes, 190 N.E. 2d. 65, (Ohio, 1963) 13

Bacich v. Board of Control of California, 144 P. 2d. 818 (Cal. 1943) 11, 17

Blowing Rock v. Gregorie, 243 N. C. 364, 90 S.E. 2d. 898 (1955) 20

Breident v. Southern Pacific Co., 34 Cal. Rep. 237 (Cal. 1963) 11

Brooklyn Dist. Terminal v. City of NewYork, 139 F. 2d 1007 (1944) 10

Chapman v. Sheridan-Wyoming Coal Co., 338 U.S. 621 94 L. Ed. 393 (1950) 18

Chicago v. Baker, 98 Fed. 830 (1900) 11

Chicago B & Q Railroad Co. v. Chicago, 166 U.S. 226, 41 L. Ed. 979 (1897) 21, 24

Page

City of Raleigh v. Edwards, 235 N. C. 671, 71 S.E. 2d. 396 (1952) 18

City of Rock Hill v. Cothran, 40 S.E. 2d. 239 (1947) .. 17

Conrad v. Land Company, 126 N. C. 776, 36 S.E. 282 (1900) 12

Coy v. City of Tulsa, 2 F. Supp. 411 (1933) 12

Creasy v. Stevens, 160 F. Supp. 404 (1958) 16

Demorest v. Bank Co., 321 U.S. 36, 42, 88 L. Ed. 526, 530 24

Evans v. Horne, 226 N. C. 581, 39 S.E. 2d. 612 (1946) 12, 19

Gormley v. Clark, 134 U.S. 338 (1890) 13

Griggs v. Allegany County, 369 U.S. 84, 85, 7 L. Ed. 2d. 585, 586 24

Hedrick v. Graham, 245 N. C. 249, 96 S.E. 2d. 129 (1957) 10, 11

Hiatt v. City of Greensboro, 201 N.C. 515, 160 S.E. 748 (1931) 12, 22

Highway Commission v. Flemming, 157 So. 2d. 792 (Miss. 1963) 12

Page

Hughes v. City of Cincinnati, 195 N.E. 2d. 552 (Ohio, 1964) 13

Hughes v. State, 328 P. 2d. 397 (Wash. 1958) 11, 14

In Re Hull, 204 N.W. 534 (Minn. 1925) 15

Insurance Co. v. Carolina Beach, 216 N.C. 778, 7 S.E. 2d. 13 (1940) 12, 18, 20

Jablewsky v. State, 38 N.Y.S. 2d. 679 (N.Y. 1942) 14

Lang v. Smith, 173 At. 682 (Pa. 1934) 18, 19

Martin v. United States, 220 Fed. Supp. 65 (1959) ..12, 22

Meyer v. Richmond, 172 U. S. 82 (1898) 14

Minner v. City of Lynchburg, 129 S.E. 2d. 673 (Va. 1963) 13

Moose v. Carson, 104 N. C. 431, 10 S.E. 689 (1899) 13, 21, 23

Mulher v. New York, 197 U.S. 544, 49 L. Ed. 872 23

Nick v. Highway Commission, 109 N.W. 2d. 71 (Wis. 1961) 15

Panhandle Co. v. State Highway Commission, 294 U.S. 613, 79 L. Ed. 1090 (1935) 13

Perry v. United States, 294 U.S. 330, 79 L. Ed. 912 23

Page

Railroad v. Williamson, 136 U.S. 121, 34 L. Ed. 355 (1889) 21

Realty Co. v. Hobbs, 261 N.C. 414, 135 S.E. 2d. 30 (1963) 13, 19

Reichelderfer v. Quinn, 287 U.S. 315, 77 L. Ed. 331 (1932) 15

Re Joiner Street, 164 N.Y.S. 272 (N.Y. 1917) 14

Sanders v. Smithfield, 221 N. C. 166, 19 S.E. 2d. 630 (1942) 12, 17

Saur v. New York, 206 U. S. 536, 51 L. Ed. 1176 23

Schiefelbein v. United States, 124 F. 2d. 945 (1945) ..11, 16

Snow v. Highway Commission, 262 N.C. 169, 136 S.E. 2d. 678 (1964) 15

State v. Single, 59 N.Y.S. 2d. 536 aff., 76 N.E. 2d. 326 (N.Y. 1946) 14

Staton v. Railroad, 111 N.C. 278, 16 S.E. 181 (1892) .. 21

Steadman v. Pinetops, 251 N.C. 509, 112 S.E. 2d. 102 (1960) 20

Taft County v. Smith, 131 S.E. 2d. 527 (Ga. 1963) 15